

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-03/09-169  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, finding that petitioner is not entitled to a medical deduction for one of her children under the Food Stamp (Three Squares Vermont) program. The issue is whether the child fits the definition of disabled under the Food Stamp program. The material facts are not in dispute.

## FINDINGS OF FACT

1. The petitioner is a disabled individual who lives with her four children and a personal care attendant for the child in question (Br.). Petitioner receives Social Security Disability payments; her children receive dependent benefits under her Social Security account.

2. The petitioner adopted Br. and his twin brother through the Department for Children and Families, Family Services Division (formerly SRS) as a special needs adoption. Br. is diagnosed as autistic and receives special services.

3. The petitioner applied for Supplemental Security Income (SSI) disability benefits on behalf of Br. Her application was denied because he was over-income for SSI benefits.

4. On or about March 2, 2009, petitioner sent the Department medical bills for Br.

5. On or about March 6, 2009, the Department wrote petitioner that they could not use Br.'s medical expenses as a Food Stamp deduction because he did not fit the Food Stamps criteria as disabled.

6. The petitioner requested a fair hearing on or about March 20, 2009. A fair hearing commenced on April 15, 2009. The matter was continued to allow petitioner time to obtain legal representation and to allow the Department to explore the pertinent regulations. The Department stands by its decision that Br. does not meet the criteria for a disabled individual under the applicable Food Stamp regulations. Petitioner did not obtain representation.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp Program was created to combat hunger and malnutrition among low income households. Food Stamp Manual § 271.1. The amount of Food Stamps a household receives is based upon a complex formula that is set out in the Food Stamp Manual (FSM) and that reflects the level of federal funding for the Food Stamp Program. FSM § 273.9.

Food Stamp determinations allow for certain deductions including, in certain situations, an excess medical deduction. FSM § 273.9(d)(3) allows a medical deduction for

[t]hat portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in 271.2

The pertinent sections of FSM § 271.2 define "elderly or disabled member" as:

(2) receives Supplemental Security Income benefits under Title XVI of the Social Security Act or disability or blindness payments under Title I, II, X, XIV, or XVI of the Social Security Act;

(3) receives Federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;

(4) receives Federally or State-administered supplemental benefits under section 212(a) of Public Law 93-66;

Unfortunately, Br. does not meet the definition for "disabled member" under the Food Stamp regulations although he has a disabling condition. The Food Stamps program has tied in their definition of disability to the receipt of needs-based benefits such as Supplemental Security Income.

The Department has correctly applied the regulations to this case. Accordingly, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing No. 1000.4D.

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